

United States District Court
Court Western Division

FILED
JAMES BONINI
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U.S. DISTRICT COURT
SOUTHERN DIST OHIO
WEST DIV CINCINNATI

Plaintiff Walter
vs
MONROE PORTER ET AL

Plaintiff Responds to defendant's motion for summary judgment

Defendants assert that Walter was not denied medical attention and attach several medical documents to support its motion. But after Walter reviewing all the medical documents attached to defendant's motion its only one set of documents that pertains to the ~~complaint~~ assertions in Walter's complaint and that is the X-Rays of the RAZOR being in Walter's stomach. All other documents have no bearing on Walter's complaint.

Plaintiff ~~and~~ is requesting that this Court focus its attention on the dates of the alleged treatment and denial of treatment and allegations of Walter's complaint.

In Walter's complaint he states he was denied treatment for his back from September 2000 to April 2001.

He was denied prescribed medication from the specialist at the Correctional medical center BY DR NZEogu and the first ~~at~~ elbow which was ordered BY specialist a C.M.C.

Walter never received any treatment for the RAZOR being in his stomach.

and defendant's refused to let Walter see the doctor about his problems.

on November 29, 2000 plaintiff ~~ingested~~ ingested a razor blade. defendants ~~assert~~ assert plaintiff was placed in the infirmary until August 27, when a final ~~x-ray~~ x-ray indicated the razor had passed

plaintiff was held in the infirmary from November 29, 2000 until December 19, 2000 at which time wotley was order out the infirmary and placed in a segregation block unable to be observed and unable to receive treatment for the razor being in stomach, and while wotley's stay in the infirmary wotley used the restroom and found blood in his stool nothing was. Also on 11-29-00 wotley spit up blood and showed it to defendant parks with she stated to wotley what do you think going to happen when you swallow a razor and left wotley doors. the only reply wotley got about the blood being in his stool ~~and~~ was that I'm a patient in the infirmary (see) exhibit (1)

for 8 months wotley was not in the care of medical staff with the razor in his stomach and not being observed by medical staff even tho medical staff had knowledge of wotley spitting up blood and having blood in his stool but ~~took~~ took no actions to correct this problem but placed wotley back into segregation until the razor had passed

~~and defendants~~ ~~the~~ the one piece of evidence the defendants did not submit to this court was evidence that wotley was ~~in~~ in the infirmary being monitored for the 8 months the razor was in his stomach because wotley was not being monitored ~~the~~ the documents submitted does not even indicate a daily log of the ~~process~~ process of the razor ~~their~~ was only ~~an~~ x-rays taken two and 3 months apart only after wotley

indicated he was having stomach pains

~~Defendants were aware of the razor~~

Defendants were deliberately indifferent to Wotley's need. Defendants knew the razor was in Wotley's stomach but patiently waited to see if the razor ~~or~~ damaged Wotley before they would take ~~any~~ actions to get the razor removed and the fact that Wotley did not receive injury while the blade was in his stomach does not exclude defendants from an eighth amendment violation. This court held in Parrish v Johnson 800 F.2d 600, 610 (6th Cir 1986) that an actual injury is not a necessary predicate to ~~the~~ receiving damages for an eighth amendment violation. (see) Boretti v Wisconsin 930 F.2d 1150 (6th Cir 1991) treatment prisoners receive in prisons and ~~detention~~ conditions under which he is confined are subject to scrutiny under the 8th amendment. former 511 U.S. 825 Requirement that prison officials show deliberate indifference to prisoners in order to be liable for failure to prevent is satisfied by something less than acts or omissions for very purpose of causing harm or with knowledge that harm will result (see) former v. Brennan 114 S.Ct 1970 (1994)

Defendants admitted they had knowledge of the razor being in Wotley's stomach but took no actions to get it removed. The blade stayed in Wotley's stomach for 8 months after a couple of months of the razor still being present and several complaints of pain medical would take some action to get it removed. If the razor wouldn't have passed Wotley would still have in his system and nothing still would be done about it, so plaintiff had to sit with stomach pain and a fear that he might receive internal bleeding and ~~or~~ die in his sleep for 8 months

It is clear threw the dates of the x Rays that defendants was not monitoring walters medical conditions

The first x-Ray was taken 11-29-00 which showed the Razor then another x Ray 12-4-2000 and 12-26-00

Walter did not ~~not~~ receive another x-Ray until 5-10-01 five months later and the x-Ray was not taken to monitor the Razor Blade, the x-Ray was taken for walters "spine" a problem walter has with his back and during that x-Ray the Razor Blade was seen again (see) exhibit (2) defendants stopped monitoring the Blade being in walters stomach for five months

When the x-Ray was purposely took to monitor walters stomach the x-Ray held "ABDOMEN FLAT" up in the top left hand corner (see) exhibit 3 and 4

When the x-Ray was taken of walters spine it held "LUMBAR SPINE" in the top left hand corner (see) exhibit (2)

~~After the 5-10-01 x-Ray~~ And after defendants found the Razor Blade still in walters stomach from the 5-10-01 ~~x-Ray~~ 5-31-01 x-Ray defendant did not monitor walter again until 3 months later until 8-27-01 (see) exhibit (5)

If walter would not have had the x-Ray done of his spine defendants would not have monitored walters medical condition at all

The allegation that ~~the~~ defendants made that wotley medical condition was being closely monitored are false. The dates of the X Rays and the reason why the X Rays were taken shows otherwise.

Mr. Wotley has been having low back pain and numbness to his left leg since 1999 in ~~1999~~ ~~1999~~ ~~1999~~ ~~1999~~ which comes from a disc protrusion (see) exhibit (6)

In the year of 2000 Mr. Wotley's back problems got worse and defendants would refuse wotley treatment for his back for 8 months from ~~the~~ September 2000 until April 2001.

Mr. Wotley only received treatment when the Chief Inspector ordered an investigation because it was not clear that wotley was receiving ~~the~~ treatment for his back (see) exhibit (7) and the investigation proved wotley ~~was~~ was not receiving treatment for his back for 8 months and defendants was ordered to treat wotley's problem. If the Chief Inspector would not have ordered treatment wotley would not have received treatment.

Defendants would even deny wotley to sign up for ~~the~~ sick call ~~which~~ which is the procedure inmates have to go through to receive medical care and the Chief Inspector ordered that defendants cannot ~~deny~~ deny me medical care (see) exhibit (8)

It is clear that Watley was not receiving treatment and that Watley did not start receiving treatment until the ~~the~~ chief inspector ordered defendants to treat Watley and tell them they cannot deny Watley medical care (see) exh (7) and (8)

Mr Watley also nerve damage in his left arm which required surgery Watley was scheduled for surgery on ~~the 5-24-01 with defendants was denying plaintiff to~~

5-24-01 with defendants was denying plaintiff to have done first defendants assert the surgeon who was to perform my surgery had on ~~the~~ "heart attack. ~~and the surgeon was not supposed to be there~~

(see) exhibit (9) which is false Watley personally talked to the doctor who supposed to perform the surgery and he states soot refused to bring me to have the surgery done. Then when Watley complains of the matter again they state they ~~do~~ don't know why I have not had the surgery done (see) exhibit (10) it's the defendants duty to make sure Watley received medical care ~~and the~~

Watley did not ~~the~~ receive the surgery done until 15 months later in August of 2002

once ~~the~~ defendants was ordered to treat Watley defendants would send Watley to the Correctional medical center (C.M.C) because defendants could not ~~the~~ treat Watley's problem. when the specialist would order Watley treatment the defendants would come Watley the medication to treat Watley's problem (see) exh 11, 12, 13, 14, 15

Defendant send Watley to the specialist because they cannot treat Watley's problem then ~~the~~ the defendants come Watley the treatment

Defendants have no treatment plan to treat Watley's problems. Watley is waiting to see the doctor about back pain now.

Defendants' conduct amounts to deliberate indifference.

Plaintiff must show that defendants were deliberately indifferent to an excessive risk to inmate's health or safety, meaning that the officials actually knew of and disregarded the risk. ~~see~~ Farmer, 529 U.S. 881.

Mr. Watley has ~~not~~ satisfied this test. Defendants knew of the razor being in Watley's stomach and the excessive risk of injury the razor could cause but let the razor sit in Watley's stomach for 8 months without anything being done, and the only response to the demand for treatment was Watley's was being monitored. But the dates of the X-ray shows otherwise. It's only obvious what type of damage would do to a person showing let alone to soft tissue of the stomach.

Defendants further denied Watley medical treatment for 8 months for his back problem only after the orders from the chief inspector to treat Watley. And Watley began to receive treatment. Then once ~~Mr.~~ Watley was ~~sent~~ sent to C.M.C. to receive treatment, defendants would deny Watley of that treatment and medication.

Intentionally interfering with treatment once prescribed is one of the forms of deliberate indifference. *Estelle v. Gamble*, 429 U.S. 97, 105.

many Courts have held that failing or refusing to provide medication prescribed by physicians constitute deliberate indifference. Aswegan v Buttl 965 F.2d 676 677-78 (8th CIR 1992) Hill v Marshall 962 F.2d 1209 1213-14 (6th CIR 1992) Johnson v Hay 931 F.2d 456 461-62 (8th CIR 1991) Borrett v Wiscomb 930 F.2d 1150, 1156 (6th CIR 1991) Johnson v Hardin County KY 908 F.2d 1280, 1284 (6th CIR 1990) ~~Ellis~~ Ellis v Butler 890 F.2d 1002, 1003-04 (8th CIR 1989)

Defendants would reportedly claim that a prescribed water medication that was ordered by specialist at C.M.C. alleging ~~that~~ ~~as~~ those orders are only recommendations, but how can the specialist orders be recommendations when defendants sent water to the specialist because defendants could not treat water's problem.

Defendants further denied water surgery for his left arm for 15 months.

Defendants Actions was nothing but deliberate indifference to water's medical need they had to be ordered by the chief inspector to treat water for these reasons defendants motion should be denied.

Ralph water

Copy of the foregoing was sent to Markham Pressman at 1600 Carlow Tower 441 Vine St Cincinnati Ohio 45202 by Regular U.S. mail on this 7th day of May 2004.

Ralph water